LAW OFFICES OF

BUCHALTER, NEMER, FIELDS & YOUNGER

(A PROFESSIONAL CORPORATION)

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April 21, 1988

CENTURY CITY OFFICE

SUITE 1780

1900 AVENUE OF THE STARS

LOS ANGELES, CALIFORNIA 90067-4472

(818) 990-2165 GRANGE COUNTY OFFICE

SUITE 1400 660 NEWPORT CENTER DRIVE NEWPORT BEACH, CALIFORNIA 92660-6415 (714) 760-1121

Martina W. Cheng

File #W3250-0004

CC Washington, 3, 6

VIA FEDERAL EXPRESS

Ms. Mildred Lee
Interstate Commerce Commission
12th & Constitution Avenue, N.W.
Room 2303
Washington, D.C. 20423

RECORDATION NO. 5600 Filed 1885

APR 2 2 1988-3 20 PM

INTERSTATE COMMERCE COMMISSION

Re:

Recording of Security Agreement

Borrower: Southwestern Portland

Cement Company

Secured Party: Wells Farqo Bank, N.A.

Dear Ms. Lee:

Pursuant to our telephone conversation of April 20, 1988, enclosed herewith please find the original and a photocopy of notification letter and enclosures therefor from Wells Fargo Bank, N.A. for recordation.

Please record the enclosed with the Interstate Commerce Commission and return an acknowledgment of filing, in the form of a receipt, to this office at your earliest convenience. Also enclosed is a check in the sum of \$13.00 for your fees.

LAW OFFICES OF

BUCHALTER, NEMER, FIELDS & YOUNGER

(A PROFESSIONAL CORPORATION)

Ms. Mildred Lee April 21, 1988 Page 2

Thank you for your assistance in this matter. If you have any questions or should you require additional information, please let me know.

Very truly yours,

BUCHALTER, NEMER, FIELDS & YOUNGER

By Watil. Change

Martina W. Cheng Legal Assistant

MWC:hp

cc: Robert H. Nagle, Esq.

Dated as of April 5, 1988

1 5600 RECOGDATION NO.,....Filed 1425

Secretary
Interstate Commerce Commission
12th & Constitution Avenue, N.W.
Washington, D.C. 20423

APR 2 2 1988-3 22 PM

INTERSTATE COMMERCE COMMISSION

Dear Secretary:

I have enclosed an original and one copy of the document described below to be recorded pursuant to Section 11303 of Title 49 of the U.S. Code.

This document is a security agreement, a primary document, dated as of April 5, 1988.

The names and addresses of the parties to the documents are as follows:

Secured Party:

Wells Fargo Bank, N.A.
333 South Grand Avenue, 9th Floor
Los Angeles, California 90071

Borrower:

Southwestern Portland Cement Company 3055 Wilshire Boulevard Los Angeles, California 90010

A description of the equipment covered in the document is attached hereto as Schedule 1.

Included in the property covered by the document described above are railroad cars and locomotives intended for use related to interstate commerce, or interests therein, owned by Southwestern Portland Cement Company as of the date of such document, or thereafter acquired by it or its successors as owners of the railroad cars and locomotives covered by such document.

A fee of \$10.00 is enclosed. Please return the original and extra copies not needed by the Commission for recordation to Wells Fargo Bank, N.A., 333 South Grand Avenue, 9th Floor, Los Angeles, California 90071; Attn: Beverly Neal.

Interstate Commerce Commission Dated as of April 5, 1988 Page 2

A short summary of the document to appear in the index follows:

Security Agreement between Southwestern Portland Cement Company, 3055 Wilshire Blvd., Los Angeles, California 90010 and Wells Fargo Bank, N.A., 333 Grand Avenue, 9th Floor, Los Angeles, California 90071, dated as of April 5, 1988, covering, among other things, eighty-three (83) railroad cars and locomotives.

Very truly yours,

WELLS FARGO BANK, N.A.

Title: Vice HesideN+

Enclosures

Rail Cars Owned by Southwestern Portland Cement Company:

TYPE OF	CAR	SERIAL NO.
Locomotive	Diesel 65-Ton DL-6790216 400HP	28521
Locomotive	SDP-35 Diesel Elec. 2500HP	29350
Locomotive	GP-40 Diesel Elect. 300HP	7064-5
R.R. Slug	GP 20, 2000 HP 120-Ton	7597-16
Hopper	Bottom Dump 70-Ton	6058
Hopper	Bottom Dump 70-Ton	6200
Hopper	Bottom Dump 70-Ton	6336
Hopper	Bottom Dump 70-Ton	6661
Hopper	Bottom Dump 70-Ton	6992
Hopper	Bottom Dump 70-Ton	7058
Hopper	Bottom Dump 70-Ton	7215
Hopper	Bottom Dump 70-Ton	7276
Hopper	Bottom Dump 70-Ton	7351
Hopper	Bottom Dump 70-Ton	7471
Hopper	Bottom Dump 70-Ton	7604
Hopper	Bottom Dump 70-Ton	7623
Hopper	Bottom Dump 70-Ton	6489
Hopper	Bottom Dump 70-Ton	6660
Hopper	Bottom Dump 70-Ton	7701
Hopper	Bottom Dump 70-Ton	80
Hopper	Bottom Dump 70-Ton	16898



Hopper	Bottom Dump 70-Ton	88
Hopper	Bottom Dump 70-Ton	89
Hopper	Bottom Dump 70-Ton	90
Hopper	Bottom Dump 70-Ton	93
Hopper	Bottom Dump 70-Ton	95
Hopper	Bottom Dump 70-Ton	96
Hopper	Bottom Dump 70-Ton	98
Hopper	Bottom Dump 70-Ton	99
Hopper	Coal 100-Ton	103
Hopper	Coal 100-Ton	104
Hopper	Coal 100-Ton	105
Hopper	Coal 100-Ton	106
Hopper	Coal 100-Ton	107
Water Car	10,000 Gal. Tank Car	CHAX 175
Water Car	10,000 Gal. Tank Car	CHAX 198
Water Car	10,000 Gal. Tank Car	CHAX 199
Locomotive	Crane	941
Locomotive	Crane	4532
Locomotive	Electric	29952
Locomotive	99-Ton	75120
Locomotive	1000-Ton	59079
Hopper	50-Ton Bottom Dump	DFC135769
Hopper	50-Ton Bottom Dump	SPCC318201
Hopper	50-Ton Bottom Dump	SPCC348281
Hopper	50-Ton Bottom Dump	OFC135772
Hopper	50-Ton Bottom Dump	OFC135974

Hopper	50-Ton	Bottom	Dump	OFC135967
Hopper	50-Ton	Bottom	Dump	OFC135851
Hopper	50-Ton	Bottom	Dump	OFC135939
Hopper	50-Ton	Bottom	Dump	OFC135943
Hopper	50-Ton	Bottom	Dump	OFC135922
Hopper	50-Ton	Bottom	Dump	OFC135792
Hopper	50-Ton	Bottom	Dump	OFC135969
Hopper	50-Ton	Bottom	Dump	OFC135822
Hopper	50-Ton	Bottom	Dump	OFC135978
Hopper	50-Ton	Bottom	Dump	OFC135758
Hopper	50-Ton	Bottom	Dump	OFC135839
Hopper	50-Ton	Bottom	Dump	OFC135901
Hopper	50-Ton	Bottom	Dump	OFC50241
Hopper	50-Ton	Bottom	Dump	OFC50244
Hopper	50-Ton	Bottom	Dump	OFC50249
Hopper	50-Ton	Bottom	Dump	OFC50254
Hopper	50-Ton	Bottom	Dump	OFC50289
Hopper	50-Ton	Bottom	Dump	OFC135789
Hopper	50-Ton	Bottom	QmmD	OFC135932
Hopper	50-Ton	Bottom	Dump	OFC135760
Hopper	50-Ton	Bottom	Dump	SWPC 2353
Hopper	50-Ton	Bottom	Dump	SWPC2358
Hopper	50-Ton	Bottom	Dump	SWPC2362
Hopper	50-Ton	Bottom	Dump	SWPC2379
Hopper	50-Ton	Bottom	Dump	SWPC2382
Hopper	50-Ton	Bottom	Dump	SWPC2383

•

H	opper	50-Ton	Bottom	Dump	SWPC2351
H	opper	50-Ton	Bottom	Dump	SWPC 2352
Н	opper	50-Ton	Bottom	Dump	SWPC2356
Н	opper	50-Ton	Bottom	Dump	SWPC2359
Н	opper	50-Ton	Bottom	Dump	SWPC2361
Н	opper	50-Ton	Bottom	Dump	SWPC2370
Н	opper	50-Ton	Bottom	Dump	SWPC2380
Н	opper	50-Ton	Bottom	Dump	SWPC2387
Н	opper	50-Ton	Bottom	Dump	SWPC2388
Н	opper	50-Ton	Bottom	Dump	SWPC2389

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INTERSTATE COMMERCE COMMISSION

SECURITY AGREEMENT

Dated as of April 5, 1988

between

WELLS FARGO BANK, N.A.,
a national banking association,
in its capacity as Agent,

and

SOUTHWESTERN PORTLAND CEMENT COMPANY, a Delaware corporation

TABLE OF CONTENTS

Security Agreement

	<u>P</u>	<u>age</u>
1.	DEFINITIONS	1
	1.1 "Accounts"	1
	1.2 "Agreement"	1
	1.3 "Bank" and "Banks"	2
	1.4 "Banks' Expenses"	2
	1.5 "Code"	2
	1.6 "Collateral"	2
	1.7 "Credit Agreement"	2
		3
	1.8 "Debtor"	3
	1.10 "Equipment"	3
	1.11 "Event of Default"	3
	1.12 "Excluded Property"	3
	1.13 "General Intangibles"	3
	1.14 "Guaranty"	4
	1.15 "Inventory"	4
	1.16 "Majority Banks"	4
	1.16 "Majority Banks"	4
	1.18 "Obligations"	4
	1.19 "SD"	4
	1.20 "SDW"	4
	1.21 "Secured Party"	4
	1.21 "Secured Party"	5
		•
2.	CONSTRUCTION	5
		_
3.	CREATION OF SECURITY INTEREST	5
		•
4.	INSURANCE	5
••		•
5.	FURTHER ASSURANCES	7
•		•
6.	EVENTS OF DEFAULT	8
•		•
7.	RIGHTS AND REMEDIES	8
•		•
8.	WAIVERS	11
٠.	HUTATIO	
9.	ATTORNEYS' FEES AND COSTS	11
٠,	TITIONALD IND AND COOLD	
10	NOTTOES	11

		<u>Page</u>
11.	CHOICE OF LAW AND VENUE	11
12.	GENERAL PROVISIONS	12

SECURITY AGREEMENT

THIS SECURITY AGREEMENT, dated as of April 5, 1988, is entered into between Secured Party, on behalf of Banks, and Debtor in light of the following facts:

WHEREAS, SD and SDW, on the one hand, and Secured Party and Banks, on the other hand, have entered into or are in the process of entering into that certain Credit Agreement of even date herewith, (the "Credit Agreement");

WHEREAS, Debtor has executed that certain General Continuing Guaranty, of even date herewith ("Guaranty"), in favor of Secured Party, on behalf of Banks, respecting certain obligations of SD owing to Banks under the Credit Agreement; and

WHEREAS, Debtor has agreed to grant to Secured Party, on behalf of Banks, a security interest in all of Debtor's Collateral as security for Debtor's obligations under the Guaranty.

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions, representations, and warranties hereinafter set forth, and for other good and valuable consideration, the parties hereto agree as follows:

1. **DEFINITIONS**

As used in this Agreement, the following terms shall have the following meanings.

- of Debtor's presently existing and hereafter arising accounts, contract rights, rights of payment, instruments, notes, drafts, documents, chattel paper, and all other forms of obligations owing to Debtor arising out of the sale or lease of goods or the rendition of services by Debtor, irrespective of whether earned by performance, and any and all letters of credit, credit insurance, guaranties, and other security therefor, and all merchandise returned to or reclaimed by Debtor, and any and all accounts resulting from the sale of any minerals or the like (including oil and gas) at the wellhead or minehead, and all proceeds and products of any of the foregoing, and all of Debtor's Books relating to any of the foregoing; provided, however, that "Accounts" shall not include Excluded Property.
- 1.2 "Agreement" means and refers to this Security Agreement, any concurrent or subsequent exhibits or

schedules to this Security Agreement, and any extensions, supplements, amendments, or modifications to or in connection with this Security Agreement, or to any such schedules or exhibits.

- 1.3 "Bank" and "Banks" means and refers to each and all, respectively, of the banks and financial institutions which either now or in the future are signatories to the Credit Agreement.
- "Banks' Expenses" means and refers to: any 1.4 and all reasonable costs or expenses required to be paid by Debtor under this Agreement which are paid or advanced by Banks, or any of them, or by Secured Party on behalf of Banks; all reasonable costs and expenses of Banks, or any of them, or of Secured Party on behalf of Banks, including their or its reasonable attorneys' fees and expenses, incurred or expended to correct any default or enforce any provision of this Agreement, or in gaining possession of, maintaining, handling, preserving, storing, shipping, selling, preparing for sale, or advertising to sell the Collateral, irrespective of whether a sale is consummated; and all reasonable costs and expenses of suit incurred or expended by Banks, or any of them, or by Secured Party, on behalf of Banks, including their or its reasonable attorneys' fees and expenses in enforcing or defending this Agreement, irrespective of whether suit is brought.
- 1.5 "Code" means and refers to the California Uniform Commercial Code, and any and all terms used in this Agreement which are defined in the Code shall be construed and defined in accordance with the meaning and definition ascribed to such terms under the Code, unless otherwise defined herein.
- 1.6 "Collateral" means and refers to any and all of the Accounts, Equipment, Inventory, General Intangibles, Negotiable Collateral, and any proceeds or products of any of the foregoing, including proceeds of insurance covering the Collateral, or any portion thereof, and any and all Accounts, Equipment, Inventory, General Intangibles, Negotiable Collateral, money, deposit accounts, or other tangible or intangible property resulting from the sale or other disposition of the Accounts, Equipment, Inventory, General Intangibles, or Negotiable Collateral, or any portion thereof or interest therein, and the proceeds thereof; provided, however, that "Collateral" shall not include Excluded Property.
- 1.7 "Credit Agreement" shall have the meaning set forth in the recitals to this Agreement.

- 1.8 "Debtor" means and refers to SOUTHWESTERN PORTLAND CEMENT COMPANY, a Delaware corporation, with its chief executive office located at 3055 Wilshire Boulevard, 12th Floor, Los Angeles, California 90010.
- 1.9 "Debtor's Books" means and refers to any and all of Debtor's books and records, including, all records, ledgers, computer programs, disc or tape files, printouts, runs, and other computer prepared information indicating, summarizing, or evidencing the Accounts, Equipment, Inventory, General Intangibles, or Negotiable Collateral.
- of Debtor's presently existing and hereafter acquired machinery, railroad cars, locomotives, or other rolling stock or vessels, equipment, tools, motors, fixtures, parts, jigs, drilling equipment (including drilling platforms, derricks, drills, bits, pipes, and other machinery and equipment relating to the drilling, extraction, or storage of oil, gas, or any other minerals), and other goods (other than Inventory, farm products, and consumer goods), and all attachments, accessories, replacements, substitutions, additions, or improvements thereto, wherever located, and the proceeds and products of any of the foregoing; provided, however, that "Equipment" shall not include Excluded Property.
- 1.11 "Event of Default" means and refers to the occurrence of any one of the events set forth in Section 6 of this Agreement.
- 1.12 "Excluded Property" means and refers to:
 (a) the personal property of Debtor set forth on Exhibit 1.12 attached hereto and incorporated herein by this reference; and (b) that portion of Debtor's personal property which (i) if included in the Collateral, would violate, be prohibited by, or constitute a default under any agreement, contract, document, or law relating thereto or would require any consent which has not yet been obtained, and (ii) is immaterial to the business, properties, assets, operations, or condition (financial or otherwise) of Debtor.
- 1.13 "General Intangibles" means and refers to any and all of Debtor's presently existing and hereafter acquired or arising general intangibles and other personal property (including any and all choses or things in action, goodwill, patents, trade names, trademarks, service marks, blueprints, drawings, purchase orders, customer lists, monies due or recoverable from pension funds, route lists, infringement claims, computer programs, computer discs, computer tapes, literature, reports, catalogs, deposit accounts, tax refunds and tax refund claims), other than goods

and Accounts, and any and all personal property interests in any minerals or the like (including oil or gas) before extraction, and the proceeds and products of any of the foregoing, as well as Debtor's Books relating to any of the foregoing; provided, however, that "General Intangibles" shall not include Excluded Property.

- 1.14 "Guaranty" shall have the meaning set forth in the recitals to this Agreement.
- of Debtor's presently existing and hereafter acquired goods held for sale or lease or to be furnished under a contract of service, including all of Debtor's presently existing and hereafter acquired raw materials, work in process, and finished goods, wherever located, together with all containers, packing, packaging, shipping, and similar materials, and the products and proceeds of any of the foregoing; provided, however, that "Inventory" shall not include Excluded Property.
- 1.16 "Majority Banks" shall have the meaning ascribed thereto in the Credit Agreement.
- 1.17 "Negotiable Collateral" means and refers to any and all of Debtor's presently existing and hereafter acquired or arising letters of credit, advices of credit, notes, drafts, instruments, documents, leases of personal property, and chattel paper, as well as Debtor's Books relating to any of the foregoing; provided, however, that "Negotiable Collateral" shall not include Excluded Property.
- 1.18 "Obligations" means and refers to any and all debt, liabilities, obligations, or undertakings owing by Debtor to Secured Party or Banks of any kind or description arising under, advanced pursuant to, or evidenced by the Guaranty or this Agreement, irrespective of whether for the payment of money, whether direct or indirect, absolute or contingent, due or to become due, voluntary or involuntary, whether now existing or hereafter arising, and including all interest not paid when due and all Banks' Expenses which Debtor is required to pay or reimburse pursuant to this Agreement, the Guaranty, by law, or otherwise.
- 1.19 "SD" means and refers to SOUTHDOWN, INC., a Louisiana corporation.
- 1.20 "SDW" means and refers to SDW, INC., a Louisiana corporation.
- 1.21 "Secured Party" means and refers to WELLS FARGO BANK, N.A., a national banking association, acting in its

capacity as agent on behalf of Banks under the Credit Agreement, and any successor thereto.

1.22 "Unmatured Event of Default" means and refers to an event, act, or occurrence which with the giving of notice or the lapse of time (or both) would become an Event of Default.

2. CONSTRUCTION

Unless the context of this Agreement clearly requires otherwise, references to the plural include the singular, the singular includes the plural, the part includes the whole, "including" is not limiting, and "or" has the inclusive meaning represented by the phrase "and/or." References in this Agreement to "determination" by Secured Party or the Majority Banks include good faith estimates by Secured Party or the Majority Banks, as applicable (in the case of quantitative determinations) and good faith beliefs by Secured Party or the Majority Banks, as applicable (in the case of qualitative determinations). The words "hereof," "herein," "hereby," "hereunder," and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. Article, section, subsection, exhibit, and schedule references are to this Agreement unless otherwise specified.

3. CREATION OF SECURITY INTEREST

Debtor hereby grants to Secured Party, and thereby to Banks, a continuing perfected security interest (subject only to Permitted Liens, as defined in Section 6.2 of the Credit Agreement) in all presently existing and hereafter acquired or arising Collateral in order to secure prompt payment and performance of all of the Obligations (including prompt performance by Debtor of each and all of its covenants and obligations under this Agreement and the Guaranty). Such security interest in the Collateral shall attach to all Collateral without further act on the part of Secured Party, Banks, or Debtor.

4. INSURANCE

Debtor will obtain and maintain with financially sound and reputable insurers, insurance with respect to its properties and business against loss or damage of the kinds customarily insured against by corporations of established reputation engaged in the same or similar businesses and similarly situated, of such types and in such amounts as are customarily carried under similar circumstances by such other organizations. Such insurance shall (a) with respect to any

hazard insurance, name as the loss payee thereunder for loss or damage to property Debtor and Secured Party, as their interests may appear, and shall contain a lender's loss payee endorsement substantially equivalent to the California 438-BFU endorsement, and (b) with respect to liability insurance, name Secured Party as an additional insured thereunder. Every policy of insurance referred to in this Section shall contain an agreement by the insurer that it will not cancel such policy except after thirty (30) calendar days prior written notice to Secured Party. Upon request, duplicate original policies or certificates evidencing such insurance shall be delivered to Secured Party. such insurance policy or certificate is not so delivered to Secured Party or in the event such insurance policy is cancelled, irrespective of whether Secured Party has the policy or certificate in its possession, and no reinstatement or replacement policy or certificate evidencing such is received prior to termination of insurance, Secured Party, without notice to or demand upon Debtor, may (but shall not be obligated to) obtain such insurance with such company as Secured Party may deem satisfactory, and pay the premium therefor, and the amount of any premium so paid shall be charged to an promptly paid by Debtor or at the option of the Secured Party, may be added to the Obligations.

Debtor shall give Secured Party prompt notice of any loss covered by such hazard insurance, and Secured Party shall have the right to join Debtor in adjusting any hazard loss to owned property in excess of Five Hundred Thousand Dollars If there shall have occurred, and is continuing, an Event of Default, Secured Party shall have the exclusive right to adjust all losses payable under any such insurance policies without any liability to Debtor whatsoever in respect of such adjustments. Proceeds received as payment for any loss under any such insurance, in excess of any applicable deductible limits, shall be paid as follows: (A) if there exists, and is continuing, an Event of Default, then all payments for any loss under such insurance shall be paid over to Secured Party as a prepayment of the Obligations, such prepayment to be applied to the Obligations by Secured Party in such order as Secured Party may elect; or (B) at any other time, (1) if the amount of such proceeds, after deductibles, is \$0-\$249,999, any such payment shall be made to Debtor without condition, (2) if the amount of such proceeds, after deductibles, is \$250,000-\$499,999, any such payment shall be made to Debtor for application toward the cost of repair, replacements, or restoration (collectively, "restoration") of the Collateral so damaged or destroyed with any amounts not used by Debtor for such restoration, at Secured Party's option, to be paid to Secured Party for application to the Obligations, or (3) if the amount of such proceeds, after deductibles, is \$500,000 or greater, to Secured Party to be advanced by Secured Party to Debtor under stage payment terms satisfactory to Secured Party for application to the cost of restorations of the Collateral so damaged or destroyed with any amounts not used by Debtor for such restorations to be applied as a prepayment of the Obligations. All restorations of the Collateral so damaged or destroyed shall be effected with reasonable promptness and shall be of a value at least equal to the value of the Collateral so damaged or destroyed prior to such damage or destruction. Upon the occurrence and continuation of an Event of Default, all prepaid premiums shall be the sole and absolute property of Secured Party to be applied by Secured Party to the payment of the Obligations.

Debtor shall not take out separate hazard insurance concurrent in form or contributing in the event of loss with that required to be maintained under this Section 4, unless Secured Party is included thereon as a named insured with loss payable to Secured Party under a standard lender's loss payable endorsement of the character described above. Debtor shall immediately notify Secured Party whenever any such separate insurance is taken out, specifying the insurer thereunder and full particulars as to the policies evidencing the same.

5. FURTHER ASSURANCES

5.1 Debtor shall execute and deliver to Secured Party, concurrently with Debtor's execution of this Agreement, and at any time or times hereafter at the request of Secured Party, all financing statements, continuation financing statements, fixture filings, security agreements, chattel mortgages, assignments, and all other documents that Secured Party or any Bank may reasonably request, in a form satisfactory to Secured Party or the Majority Banks, to perfect and maintain perfected Banks' security interests in the Collateral and in order to consummate fully all of the transactions contemplated under this Agreement and the Guaranty. As contemplated by Section 9105 of the Code, Secured Party shall represent Banks as secured party in order to perfect Banks' security interests in the Collateral. Debtor hereby irrevocably makes, constitutes, and appoints Secured Party (and any of Secured Party's officers, employees, or agents designated by Secured Party) as Debtor's true and lawful attorney with power, upon Debtor's failure or refusal to comply with its undertakings contained in this Section 5.1, to sign the name of Debtor on any of the above-described documents or on any other similar documents which need to be executed, recorded, or filed in order to perfect or continue perfected Banks' security interests in the Collateral.

5.2 Without limiting the generality of the foregoing Section 5.1 or any of the provisions of the Guaranty,

Debtor will: (a) at the reasonable request of the Majority Banks, appear in and defend any action or proceeding which may affect Debtor's title to or the security interests of Banks in the Collateral; and (b) promptly furnish to Secured Party or any Bank, from time to time, such reports in connection with the Collateral as Secured Party or any Bank may reasonably request, all in reasonable detail, including reports describing in reasonable detail, the Accounts, Equipment, General Intangibles, Inventory, or Negotiable Collateral, specifying the locations at which the Equipment or Inventory is based, detailing the aging of the Accounts, and setting forth the then current location of Debtor's Books pertaining to the Collateral.

5.3 In the event that any portion of the Collateral, including proceeds, is evidenced by or consists of Negotiable Collateral, Debtor shall, immediately upon request therefor from Secured Party, acting at the insistence of the Majority Banks, endorse, where appropriate, and assign such Negotiable Collateral over to Secured Party, on behalf of Banks, and deliver actual physical possession of the Negotiable Collateral to Secured Party in order to perfect fully the security interests therein of Banks; provided, however, that, so long as no Event of Default has occurred and is continuing, Secured Party shall not make such request as to Negotiable Collateral which (a) constitutes proceeds of Collateral in the form of checks, drafts, or similar items paid on account of Collateral and (b) is promptly processed for collection by Notwithstanding anything to the contrary contained in this Agreement, Debtor may, so long as no Event of Default has occurred and is continuing, use cash, deposits, and other cash equivalents which constitute Collateral.

6. EVENTS OF DEFAULT

6.1 The failure of Debtor to pay when due any of the Obligations shall constitute an Event of Default under this Agreement.

7. RIGHTS AND REMEDIES

7.1 Upon the occurrence and during the continuation of an Event of Default, Secured Party, on behalf of Banks, may, without notice of election and without demand, do any one or more of the following, all of which are authorized by Debtor:

(a) Make such payments and do such acts as it considers necessary or reasonable to protect Banks' security interests in the Collateral. Debtor agrees to assemble and make available any and all of the Collateral if

Secured Party so requires. Debtor authorizes Secured Party to enter the premises where the Collateral is located, take and maintain possession of the Collateral, or any part of it, and to pay, purchase, contest, or compromise any encumbrance, charge, or lien which, in the opinion of the Majority Banks, appears to be prior or superior to Banks' security interests, and to pay all costs and expenses incurred in connection therewith;

- (b) Secured Party, on behalf of Banks, is hereby granted a license or other right to use, without charge, Debtor's trade names, trademarks, service marks, customer lists, and advertising matter, or any other property of a similar nature, in advertising for sale and selling any Collateral and Debtor's rights under all licenses shall inure to Banks' benefit;
- (c) Ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, or sell (in the manner provided for herein), the Collateral;
- (d) Sell the Collateral, at either a public or private sale, or both, by way of one or more contracts or transactions, for cash or on terms, in such manner and at such places (including Debtor's premises) as is commercially reasonable. It is not necessary that the Collateral be present at any such sale;
- (e) Without constituting a retention of collateral in satisfaction of indebtedness as provided for in Section 9505 of the Code, notify account debtors and other obligors of Debtor of Banks' security interests in the Accounts, General Intangibles, or Negotiable Collateral, and proceed to collect same and apply the net cash proceeds therefrom to the Obligations;
- (f) Secured Party, on behalf of Banks, shall give notice of any disposition of the Collateral as follows:
 - (1) Secured Party shall give Debtor and each holder of a security interest in the Collateral who has filed with Secured Party a written request for notice, a notice, in writing, of the time and place of a public sale, or, if the disposition is to be a private sale or some other disposition other than a public sale is to be made of the Collateral, the time on or after which the private sale or other disposition is to be made;

- (2) The notice shall be personally delivered or mailed, postage prepaid, to Debtor as provided in Section 10 of this Agreement, at least ten (10) calendar days before the date fixed for the sale, or at least ten (10) calendar days before the date on or after which the private sale or other disposition is to be made, unless the Collateral is perishable or threatens to decline speedily in value. Notice to persons other than Debtor claiming an interest in the Collateral shall be sent to such addresses as they have furnished to Secured Party;
- (3) If the disposition is to be a public sale, Secured Party shall also give notice of the time and place by publishing once a notice at least ten (10) calendar days before the date of the sale in a newspaper of general circulation, if one exists, in the county in which the sale is to be held;
- (g) Secured Party, on behalf of Banks, may credit bid and purchase at any public sale;
- (h) Debtor shall pay all of Banks' Expenses incurred in connection with the enforcement and exercise of any of the rights and remedies provided for herein, irrespective of whether suit is commenced; and
- (i) Any portion of the Obligations remaining unpaid after disposition of the Collateral as provided above shall be paid immediately by Debtor. Any monies in excess of the Obligations which exist after disposition of the Collateral shall be returned promptly, without interest and subject to the rights of third parties, to Debtor by Secured Party.
- 7.2 The rights and remedies of Secured Party, on behalf of Banks, under this Agreement, the Guaranty, and all other agreements contemplated hereby and thereby shall be cumulative. Secured Party, on behalf of Banks, shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by Secured Party, on behalf of Banks, of any one right or remedy shall be deemed an election, and no waiver by Banks or Secured Party of any default on Debtor's part shall be deemed a continuing waiver. No delay by Banks or Secured Party in the exercise of rights or remedies shall constitute a waiver, election, or acquiescence thereof or thereto.

8. WAIVERS

So long as Secured Party, on behalf of Banks, complies with the obligations, if any, required under Section 9207 of the Code, Secured Party and Banks shall not otherwise, in any way or manner, be liable or responsible for: (a) the safekeeping of the Equipment or Inventory; (b) any loss or damage thereto occurring or arising in any manner or fashion or from any cause; (c) any diminution in the value thereof; or (d) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other person whomsoever.

9. ATTORNEYS' FEES AND COSTS

Debtor hereby agrees to pay all reasonable attorneys' fees and all other costs and expenses which may be incurred by Secured Party in the enforcement of this Agreement, irrespective of whether suit is brought.

10. NOTICES

All notices or demands by any party relating to this Agreement shall be made in the manner set forth in Section 11.3 of the Credit Agreement and to the address of Secured Party set forth in Section 11.3 of the Credit Agreement and to the address set forth below:

If to Debtor: SOUTHWESTERN PORTLAND CEMENT

COMPANY

3055 Wilshire Boulevard

12th Floor

Los Angeles, California 90010

Attn: President

With a copy to: BRACEWELL & PATTERSON

2900 South Tower Penzoil Place

Houston, Texas 77002

Attn: William J. Hayes, Esq.

11. CHOICE OF LAW AND VENUE

THE VALIDITY OF THIS AGREEMENT, ITS CONSTRUCTION, INTERPRETATION, AND ENFORCEMENT AND THE RIGHTS OF THE PARTIES HERETO SHALL BE DETERMINED UNDER, GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS OF THE STATE OF CALIFORNIA, WITHOUT REGARD TO PRINCIPLES OF CONFLICTS OF LAW. THE PARTIES AGREE THAT ALL ACTIONS OR PROCEEDINGS ARISING IN CONNECTION WITH THIS AGREEMENT SHALL BE TRIED AND LITIGATED ONLY IN THE STATE AND FEDERAL COURTS LOCATED IN THE COUNTY OF

LOS ANGELES, STATE OF CALIFORNIA OR, AT THE SOLE OPTION OF SECURED PARTY, ON BEHALF OF BANKS, IN ANY OTHER COURT LOCATED IN THE UNITED STATES OF AMERICA IN WHICH SECURED PARTY SHALL INITIATE LEGAL OR EQUITABLE PROCEEDINGS AND WHICH HAS SUBJECT MATTER JURISDICTION OVER THE MATTER IN CONTROVERSY. DEBTOR, BANKS, AND SECURED PARTY EACH WAIVE, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW, THE RIGHT TO A TRIAL BY JURY AND ANY RIGHT EACH MAY HAVE TO ASSERT THE DOCTRINE OF FORUM NON CONVENIENS OR TO OBJECT TO VENUE TO THE EXTENT ANY PROCEEDING IS BROUGHT IN ACCORDANCE WITH THIS SECTION 11.

12. GENERAL PROVISIONS

- 12.1 Notwithstanding anything to the contrary contained herein, Debtor may sell or otherwise transfer any or all of the Collateral to SD or any Subsidiary of SD in accordance and upon compliance with the terms and conditions of the Credit Agreement, including Sections 5.3(i) and 5.15 thereof, and Section 5 hereof.
- 12.2 This Agreement shall be binding and deemed effective when executed by Debtor and accepted and executed by Secured Party, on behalf of Banks.
- 12.3 This Agreement shall bind and inure to the benefit of the respective successors and assigns of Debtor, Banks, and Secured Party; provided, however, that Debtor may not assign this Agreement or any rights hereunder without Banks' prior written consent and any prohibited assignment shall be absolutely void. No consent to an assignment by Banks shall release Debtor from its Obligations to Banks. Banks may assign their rights and duties hereunder solely in accordance with the terms and conditions of Section 11.5 of the Credit Agreement.
- 12.4 Section headings and numbers have been set forth herein for convenience only. Unless the contrary is compelled by the context, everything contained in each Section hereof applies equally to this entire Agreement.
- 12.5 Neither this Agreement nor any uncertainty or ambiguity herein shall be construed or resolved against Banks, Secured Party, or Debtor, whether under any rule of construction or otherwise. On the contrary, this Agreement has been reviewed by each of the parties and their counsel and shall be construed and interpreted according to the ordinary meaning of the words used so as to accomplish fairly the purposes and intentions of all parties hereto.
- 12.6 Each provision of this Agreement shall be severable from every other provision of this Agreement for the

று TICOR TITLE INSURANCE

STATE OF CALIFORNIA hefore me, the undersigned, a Notary Public in and for said State, personally appeared personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the President, and personally known to me or OFFICIAL SEAL proved to me on the basis of satisfactory evidence to be LORETTA E. ARIAS the person who executed the within instrument as the NOTARY PUBLIC - CALIFORNIA LOS ANGELES COUNTY Secretary of the Corporation that executed the within instrument and acknowledged My Comm. Expires Dec. 25, 1990 to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors. WITNESS my hand and official seal (This area for official notarial seal) **CAT. NO. NN00737** M TICOR TITLE INSURANCE TO 21945 CA (1-83) (Corporation) STATE OF CALIFORN **COUNTY OF** before me, the undersigned, a Notary Public in and for said State, personally appeared personally known to me or proved to me on the basis of satisfactory evidence to be the person who executed the within instrument as the President, and personally known to me proved to me on the basis of satisfactory evidence to be OFFICIAL SEAL the person who executed the within instrument as the LORETTA E. ARIAS Secretary of the Corporation OTARY PUBLIC - CALIFORNIA LOS ANGELES COUNTY that executed the within instrument and acknowledged ly Comm. Expires Dec. 25, 1990 to me that such corporation executed the within instrument pursuant to its by-laws or a resolution of its board of directors. WITNESS my hand and official seal. (This area for official notarial seal) Signature

purpose of determining the legal enforceability of any specific provision.

- 12.7 This Agreement cannot be changed, modified, amended, or terminated, except by a written document executed by both Debtor and Secured Party. All prior agreements, understandings, representations, warranties, and negotiations, if any, are merged into this Agreement, the Credit Agreement, the Guaranty, and the other documents and agreements entered into in connection herewith and therewith.
- 12.8 The parties intend and agree that their respective rights, duties, powers, liabilities, obligations, and discretions shall be performed, carried out, discharged, and exercised reasonably and in good faith.
- 12.9 After termination of the Guaranty and when Secured Party and Banks have received payment and performance, in full, of all Obligations, Secured Party, on behalf of Banks, shall execute and deliver to Debtor a termination of all of the security interests granted by Debtor hereunder.
- 12.10 All capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Credit Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first set forth above.

> SOUTHWESTERN PORTLAND CEMENT COMPANY, a Delaware corporation

WELLS FARGO BANK, N.A., a national banking association, in its capacity as Agent

Exhibit 1.12

SOUTHWESTERN PORTLAND CEMENT COMPANY PERMITS/LICENSES*

TEXAS

Odessa Facility:

- 1) Texas Air Control Board Operating Permit Rotary Kiln and Suspension Preheater No. 2 (1)
- 2) Texas Air Control Board Operating Permit Material Process & Handling Mills, No. 1 (1)
- 3) Texas Air Control Board Operating Permit Storage Silo Dust Collector & Air Distribution System(1)
- 4) Texas Air Control Board Operating Permit Rotary Kiln Coal Conversion, Kiln No. 1 (1)
- 5) Texas Air Control Board Operating Permit Rotary Kiln and Suspension Preheater Coal Conversion ID No. 2 (1)
- 6) Texas Air Control Board Operating Permit Coal Storage and Handling System (1)
- 7) Texas Air Control Board Operating Permit Cement Handling and Grinding System, No. 5 Mill. (1)
- 8) EPA, PSD-TX-024M1 Authorization for Expansion of Existing Odessa Plant (2)
- 9) EPA, PSD-TX-638 Authorization for Modification of Existing Odessa Plant (2)
- 10) Texas Department of Health Radioactive Material License (1)
- 11) Texas Department of Health Certificate of Registration for Industrial Radiation Machines and Services (1)
- 12) Permit to do Business in Texas (2)



^{*(1)} Not transferable

⁽²⁾ Silent as to transferability

- 13) Permit to do Business in New Mexico (2)
- 14) Texas Sales and Use Tax Permit (1)
- 15) Explosives Permit (18 U.S.C. Chapter 40, Explosives) (2)
- 16) Texas Department of Labor and Standards Boiler Division Certificate of Operation (2)

Amarillo Facility

- Texas Sales and Use Tax Permit (1)
- 2) Explosives Permit (18 U.S.C. Chapter 40, Explosives) (2)
- 3) Texas Department of Labor and Standards Boiler Division Certificate of Operation (2)
- 4) Texas Department of Health Radioactive Material License (2)
- 5) Texas Department of Health Certificate of Registration for Industrial Radiation Machines and Services (1)
- 6) Texas Air Control Board Construction Permit Second Finish Mill (1)
- 7) Texas Air Control Board Operating Permit Second Finish Mill (1)
- 8) [Intentionally Omitted.]
- 9) Texas Air Control Board Permit No. C-8423 Coal Storage and Handling System (1)
- 10) Texas Air Control Board Permit No. C-8432 No. 1 Rotary Kiln Fuel Conversion (1)
- 11) Registration and Log of Well SWPCCO No. 1 (Construction Well) (2)

- 12) Registration and Log of Well SWPCCO No. 2 (2)
- 13) Registration and Log of Well SWPCCO No. 3 (2)
- 14) Registration and Log of Well SWPCCO No. 4 (2)
- 15) Registration and Log of Well Test Holes No. 1 (2)
- 16) Registration and Log of Well Test Holes No. 2 (2)
- 17) Registration and Log of Well Test Holes No. 3 (2)
- 18) Application for Water Well Permit SWPCCO No. 2 (2)
- 19) Application for Water Well Permit SWPCCO No. 3 (2)
- 20) Application for Water Well Permit SWPCCO No. 4 (2)
- 21) Application for Water Well Permit SWPCCO No. 5 (Field Well No. 209) (2)
- 22) Application for Water Well Permit Field Well No. 206 (2)
- 23) Registration and Log of Well SWPCCO No. 6 (2)
- 24) Reigstration for Water Well Permit SWPCCO No. 7 (2)
- 25) Permit to Appropriate State Water, Application No. 2603, Permit No. 2371. (2)

CALIFORNIA

Long Beach Facility

South Coast Air Quality	P59291 (2) P59299 (2) M81536 (2)	Baghouse Cement Storage Gasoline Storage
City of Long Beach	FP03113 (2) 003693 (2)	Fire Permit Business License

Victorville Facility

City of Los Angeles Department of Industrial Relations	106977-78 (2) 15489 (2) 29226 (2) 79166 (2)	Business License Elevator Permit Elevator Permit Elevator Permit
State of California		
Dept. of Food		
& Agriculture	3421 (2)	Weighmaster License
Dept. of Motor Vehicles	87EN3-9-35 (2)	Employer Number
Dept. of Health Services	4282-36 (2)	Radiation License
Dept. of Business Taxes	HS HQ 36-009334	Hazardous
	(2)	Substance Tax
Dept. of Business Taxes	FR EH 23-781027 (2)	User Use Fuel Tax
State Board of Equalization	SY EH 23-110312 (2)	Sales and Use Tax

San Bernardino County

Dept. of Environmental			
Health Services	8601070039	(2)	State Fee
	8612090006	(2)	Hazardous Waste Generator
	8701071223	(2)	Hazardous Material Handler
	8612020041	(2)	Hazardous Waste Generator
	8701071243	(2)	Hazardous Material Handler
· · · · · · · · · · · · · · · · · · ·	8603040168	(2)	Underground Storage Tanks
	8702261228	(2)	Underground Storage Tanks

8701160001 (2) Domestic Water Syste. 8702260144 (2) Water System (2) Water Supply San Bernardino County Air Pollution Control FY87-88 (2) District Emissions Fee COO2081-09 (2) Foam System COO2082-09 (2) Foam System Various (2) Business Permit Environmental Public Works Agency 30785 (2) Building & Safety Dept. of Transportation P-482073 (2) Culvert

COLORADO

Lyons Facility

- 1) Explosives Permit (1)
 - a. Use, Including Purchase and Storage, Manufacturing,
 Incident Thereto
 - b. Manufacturer of Blasting Agents
- 2) Colorado Waste Water Discharge Permit (2)

OHIO

Fairborn Facility

- 1) Vendor's License (2)
- 2) Workers' Compensation License (2)
- 3) Explosives Permit (1)
- 4) Motor Carrier Fuel Use Permit (2)

- 5) Highway Motor Fuel User's License (2)
- 6) Retail Sales and Use Tax Permit (1)
- 7) Highway Crossing Permits (2)
- 8) Surface Mining Permit (2)
- 9) Radio Station License (1)
- 10) U.S. Environmental Protection Agency Permit (2)
- 11) Division of Air Pollution Operating Permit (2)

UTAH/NEW MEXICO

Leamington and Salt Lake City Facilities

Navajo Sandstone Quarry
-Reclamation Permit (2)

Sales Tax License (1)

Sale Lake County Business License (1)
Workmens Compensation (2)
Business Taxes - New Mexico (1)

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